

Jan 25, 2018

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN ELDON GREWELL, JR.,

Plaintiff,

vs.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 2:17-cv-00151-MKD

**ORDER GRANTING
STIPULATED MOTION FOR
REMAND PURSUANT TO
SENTENCE FOUR OF 42 U.S.C. §
405(g) AND CLOSING FILE**

ECF Nos. 12, 16

BEFORE THE COURT is the parties' Stipulated Motion for Remand (ECF No. 16) of the above-captioned matter to the Commissioner for additional administrative proceeding pursuant to sentence four of 42 U.S.C. § 405(g). Attorney Gary Penar represents Plaintiff. Attorney Leisa Wolf represents Defendant. The parties have consented to proceed before a magistrate judge. ECF No. 4. After considering the file and proposed order, **IT IS HEREBY**

ORDERED:

1. The parties' Stipulated Motion for Remand (**ECF No. 16**) is

GRANTED.

1 2. The above-captioned case is **REVERSED** and **REMANDED** to the
2 Commissioner of Social Security for further administrative proceeding pursuant to
3 sentence four of 42 U.S.C. § 405(g).

4 The parties agree on and the Court **ORDERS** the following terms:

5 On remand, the Appeals Council will direct the administrative law judge
6 (ALJ) to offer Plaintiff an opportunity for a new hearing, further develop the
7 record and update the medical records, and issue a new decision. Upon remand, the
8 ALJ shall also:

- 9 • Reevaluate the medical evidence of record;
- 10 • Reconsider the Veterans Administration determinations of disability;
- 11 • Obtain evidence from a medical expert or additional consultative
12 examination, if warranted;
- 13 • Reevaluate Plaintiff's subjective complaints¹; and

15 ¹ In March 2016, the Social Security Administration implemented Social Security
16 Ruling (SSR) 16-4p, 2016 WL 1119029 (Mar. 16, 2016), rescinding SSR 96-7p,
17 1996 WL 374186 (July 2, 1996) to “eliminate[e] the use of the term ‘credibility’”
18 from the ALJ’s subjective testimony analysis and “clarify that subjective symptom
19 evaluation is not an examination of an individual's character” or “truthfulness in
20 the manner typically used during an adversarial court litigation.” 2016 WL
119029, at *1-10. Accordingly, the Court has modified the parties’ use of the term
“credibility” in this agreed term.

- 1 • Reassess the remaining steps of the sequential evaluation process with
2 the assistance of vocational expert evidence with the assistance of vocational
3 expert, if necessary.

4 3. Judgment shall be entered for **PLAINTIFF**.

5 4. Plaintiff's Motion for Summary Judgment (**ECF No. 12**) is **STRICKEN**
6 **AS MOOT**.

7 5. Upon proper presentation, this Court will consider Plaintiff's application
8 for fees and expenses under the Equal Access to Justice Act, 28 U.S.C. § 2412(d).

9 The District Court Executive is directed to enter this Order, **enter**
10 **Judgment**, forward copies to counsel, and **CLOSE THE FILE**.

11 DATED January 25, 2018.

12 s/Mary K. Dimke
13 MARY K. DIMKE
14 UNITED STATES MAGISTRATE JUDGE
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